

**Waltham City Council**  
**Minutes of the Meeting of October 11, 2011**  
**City Council Chambers, Waltham City Hall**

President Brasco called the regular meeting of the Waltham City Council to order at 8:00 P.M. City Clerk Rosario C. Malone called the roll. Present at roll call were Councillors Brasco, Collura, Curtin, Darcy, Doucette, Giordano, LeBlanc, Logan, Marchese, McMenimen, Romard, Rourke, Stanley, Tarallo and Waddick. (15)

Councillor Curtin rose to request a moment of silence for Mrs. O'Halloran

Councillor Curtin moved to suspend the rule to take a resolution out of order. On a voice vote, the resolution was taken out of order. Councillor Curtin rose to speak on the resolution regarding National Breast Cancer Awareness Month (NBCAM). Councillor Curtin moved to suspend the rules and act on the resolution without committee reference. On a voice vote, the resolution was adopted.

Councillor Logan moved to accept the minutes of the September 26, 2011 meeting as amended. The motion prevailed and the minutes were adopted on a voice vote.

City Clerk Rosario C. Malone read Rule 29A.

**Special Permit**

Due notice having been given, President Brasco opened the public hearing on the petition of Arsenault Realty Trust, of 15 Church Street, Waltham, Massachusetts 02452, and Bell Atlantic Mobile of Massachusetts Corporation, Ltd., d/b/a Verizon Wireless, c/o Daniel D. Klasnick, Duval, Klasnick & Pastel LLC of 10 Cedar Street, Suite 17, Woburn, Massachusetts 01801 petition the City Council for a Special Permit pursuant to Sections 3.512, 10.521(b), 10.531(b) and 10.56 of the City of Waltham Zoning Ordinance, to modify, install, operate and maintain Wireless Communication Equipment on the façade and rooftop of the existing building located on the property at 699-709 Moody Street (Atlas Map R077, Block 010, Lot 0010), consisting of the relocation of three (3) cellular antennas on the façade and the removal of six (6) existing PCS antennas from the façade and replacement with three (3) LTE antennas and three (3) PCS antennas with six (6) new lines of 1-5/8" coaxial cables inside the existing rooftop mounted cable trays. The proposal is described in the Development Prospectus, Project Narrative, Exhibits and shown on the Plans submitted by the Petitioners.

President Brasco asked if anyone present wanted to speak in favor of the petition. Attorney Daniel D. Klasnick, of Duval, Klasnick & Pastel LLC of 10 Cedar Street, Suite 17, Woburn, Massachusetts, spoke in favor of the Petitioner. Councillor Rourke, as Ward Councillor had several questions. What was the reason for the change? Attorney Klasnick response was speed of service. Had notices been sent? Attorney Klasnick's response was the Clerk's had sent the notices. Exhibit on tab 14, was it the rendering of the location? Attorney Klasnick response was yes. Councillor Tarallo asked if a new variance was needed, Attorney Klasnick response was no. Councillor Tarallo requested that a copy of 2005 special permit be supplied to the committee. Councillor Tarallo asked if the City Clerk received a proposed decision, The proposed decision was received by the Clerk. Councillor Tarallo inquired if Attorney Klasnick had responded to the "Shot Clock" summary by the Law Department; Attorney Klasnick

response was he had not. Councillor Tarallo moved to recess the hearing until October 24, 2011, on a voice vote, the hearing was recessed.

### **Public Hearing**

#### **Recessed from September 26, 2011 to October 11, 2011**

Due notice having been given, President Brasco opened the public hearing on the petition of the City of Cambridge petitioned the Waltham City Council for permission to install conduit across Winter Street to repair and update the Gate House for the Cambridge Reservoir. President Brasco asked if anyone present wanted to speak in favor of the petition. Mr. Chip Norton, Manager of the Water Shed for the City of Cambridge and Mr Myles Blain, contractor for the project spoke on be half of the petition. Each apologized for not attending the public hearing scheduled for September 26, 2011. Councillor Darcy inquired if there was power before in the Gatehouse. Mr. Norton's response was no. Councillor Darcy inquired as to the length of time of the project. Mr. Norton response was the work would take 2 to 3 days. Councillor Romard inquired whether Cambridge could aid in install sidewalks in the area. Mr. Norton's response was no. Councillor Logan inquired as to plans. Mr. Norton's response was they were dealing with City Engineer. Councillor Tarallo requested plans illustrating the project as explained. The public hearing was closed and the petition was referred to the Licenses and Franchises Committee.

### **Communications from the Mayor**

The Clerk read the following communications from the Mayor and each in turn was referred to the appropriated committee by President Brasco as indicated below:

**1.** Respectfully request the appointment of Jacquelyn M. Mawhinney of Bartlett Way, Unit 204, Waltham, as a member of he Board of Library Trustees to fill the vacancy created by the passing of Rev. William Mawhinney.

**Referred to the Committee of the Whole**

**2.** Respectfully request an appropriation of funds in the amount of \$14,000 from the Sale of Lots & Graves account # 216-420-1745-5205 to Cemetery Improvements & Additions account # 216-420-1745-5208.

**Referred to the Finance Committee**

**3.** Respectfully request the adoption of a fee schedule for sheet metal permits: residential \$15.00 and commercial \$75.00. The \$12.00 per thousand for residential and the \$22.00 per thousand for commercial would remain as current. The only request is for the permit fee as now required by the Commonwealth.

**Referred to the Ordinances and Rules Committee**

**4.** Respectfully request an appropriation of funds in the amount of \$ 55,000 from the Library State Grant #224-610-1065-5205 to Library Educational Expenses # 001-610-5200-5510. These funds will be used towards the FY2012 education expenses account budget and too build the e-book collection.

**Referred to the Finance Committee**

**5.** Respectfully request the continuation of the temporary appointment of Patrick Powell of 229 Florence Road, Waltham, as Acting Superintendent of Public buildings for three months pending a posting for a permanent appointment.

**Referred to the Committee of the Whole**

**Licenses All Licenses were referred to the Licenses & Franchise Committee**

Renewal of Lodging House License Richard Fennelly, Jr. 24-26 High St  
Hurley House – 12-14 Lowell St. – Lodging House  
Golfo LLC – Michael Colomba – 107 Adams Street  
Josephine Furdon – 38 Floyd St.  
Bentley University: Fenway Hall Forest Hall  
Copley Hall South Copley Hall North Kresge Hall  
Stratton Hall HUD Tree Dorms Nathan R. Miller  
Slade Hall Castle Hall

Renewal of Second Hand Dealers License Gary Stone – 316 Moody Street

Renewal Class II Motor Vehicles  
190 High Street Corp. – Class 2  
Hull Inc. – dba Little Foreign Car Garage  
PPA Inc. – dba Waltham Motor Co.  
Class 2 – Newton St. Service, Inc 255 Newton St.

Renewals of Extended Hours  
Mastoran Company – Burger King – Extended Hours 881 Moody Street  
Tiki House – Extended Hours 569 Moody Street  
New Dragon Chef – 671 Moody Street  
Dunkin Donuts – 859 Main St

**Tabled From 9-26-11**

Councillor Tarallo moved to have the Compensation Ordinance recommitted for further review by the Ordinance and Rules Committee. On a voice vote, the matter was recommitted. That the Compensation Ordinance of the City of Waltham, Article V, Section 2-29.B. Positions Paid on Salary Rates, as most recently amended, is hereby further amended as follows:

**B.2 Non Union Positions Paid on Salary Rates. is hereby further amended by deleting**

Grade 13 Assistant to Transportation Director  
and inserting

Grade 13 Assistant to Traffic Engineer

Having had a first reading is before the City Council for a second, third and final reading.

Councillor Tarallo moved to have the Compensation Ordinance recommitted for further review by the Ordinance and Rules Committee. On a voice vote, the matter was recommitted.

That the Compensation Ordinance of the City of Waltham, Article V, Section 2-29.B. B.2 Non Union Positions Paid on Salary Rates is hereby further amending Section 2-30 B2. The following positions, in addition to the compensation as herein above set forth, shall receive the sum herein set forth, which sums shall become a part of the total compensation:

Deleting

2 Senior Traffic Engineering Aid for assisting in the supervision  
of the Parking Control Supervisor and Officers. \$2,500.00

and inserting

2 Assistant to Traffic Engineer for assisting in the supervision  
minutes 10-11-11

of the Parking Control Supervisor and Officers. \$2,500.00  
Having had a first reading. It is before the City Council for a second, third and final reading.

## **NEW BUSINESS**

### **Special Permit Time Extension**

Clear Wireless, LLC, an affiliate of Sprint Wireless Broadband Company, LLC and Nextel Communications of the Mid-Atlantic, Inc., 303 Wyman Street, Waltham, MA 02451; American Tower, 10 Presidential Way, Woburn, MA 01801, and Hilltop 110 Bear Hill LLC, 34 Bear Hill Road, Weston, MA 02493 petitioned the Waltham City Council for an extension of time to act on a special permit until December 30, 2011.

Councillor Tarallo moved to suspend the rules in order to act on the matter without committee reference. The motion to suspend was adopted on a voice vote. Councillor Tarallo moved to grant the time extension. The roll was called. Voting yea were Councillors Collura, Curtin, Darcy, Doucette, Giordano, LeBlanc, Logan, Marchese, McMenimen, Romard, Rourke, Stanley, Tarallo and Waddick. By a vote of 14-0, the order was adopted. Order # 31624

Late file communication for a time extension

Waltham Ventures, LLC, 119 Bare Hill Road, Boxford, MA 01921, Peter J. Morris, Trustee, Main St. Realty Trust, u/d/t dated December 10, 1993, P.O. Box 206, Key Colony Beach, FL 33051, and DPS Waltham Development LLC, 251 Newbury Street, Boston, MA petitioned the Waltham City Council for an extension of time to act on a special permit until November 28, 2011. Councillor Tarallo moved to accept the late file communication. On a voice vote, the communication was accepted. Councillor Tarallo moved to suspend the rules in order to act on the matter without committee reference. The motion to suspend was adopted on a voice vote. Councillor Tarallo moved to grant the time extension. The roll was called. Voting yea were Councillors Collura, Curtin, Darcy, Doucette, Giordano, LeBlanc, Logan, Marchese, McMenimen, Romard, Rourke, Stanley, Tarallo and Waddick. By a vote of 14-0, the order was adopted. Order # 31623

Request from the Law Department for discussion relative to the pending litigation, possible executive session. Councillor Curtin moved to postpone consideration of the matter until the end of the City Council docket. On a voice vote, the motion carried.

Councillor Curtin rose to speak on the informational matter submitted by the Mayor regarding an update on Fernald School property. Councillor Curtin spoke on the importance of the Fernald Property to Waltham. Councillor Curtin expressed that Community Preservation Funds should be used for the purchase of the property. Councillor Logan rose to question if the matter was before the City Council. Councillor Curtin stated that the Fernald Property matter was tabled in the Committee of the Whole. Councillor Logan expressed concerns about using Community Preservation Committee funds in their entirety. Councillor Tarallo suggested the City Council discuss the matter after the Mayor's next update from the State. Councillor Stanley requested that the City Council determine what funds are available through the Community Preservation Committee. Councillor Romard had the same concerns.

Councillor Curtin had three requests:

1. That the City Council requests that the Community Preservation Committee supply the City Council with the amounts available in all categories of the Community Preservation funds, including expected funds for this year.

2. That the Community Preservation Committee provide to the City Council the information regarding previous approval of funding regarding the Fernald property

3. That the City Council requests the Community Preservation Committee provide all funds that are not encumbered to date. These funds will be used towards the purchase of the Fernald property from the state. This request will be through a formal proposal to the Community Preservation Committee at their November meeting

## **RESOLUTIONS**

### **Resolution parking at the Senior Center**

Councillors Marchese and Collura presented a resolution relative to the lack of parking at the Senior Center. Councillor Marchese spoke on the inconvenience for the seniors not to have accurate parking. Councillor Collura explained how difficult it was for her to find parking for the center. Councillor Marchese moved to have the resolution referred to the Committee of the Whole. On a voice vote, the resolution was referred to the Committee of the Whole.

## **COMMITTEE REPORTS**

### **Licenses and Franchises Committee**

The Licenses and Franchise Committee recommended that the request for a Mass Port Letter for Michael Cormier be placed on file.

Councillor Logan moved the action of the committee be the action of the council. On a voice vote, the Mass Port request was filed.

The Licenses and Franchise Committee recommended that the renewal for a Class II Motor Vehicle Licenses for Paul's Auto 152 High Street be granted.

Councillor Logan moved the action of the committee be the action of the council. On a voice vote, the Class II Motor Vehicle License was granted.

### **Long Term Debt Committee**

The Long Term Debt Committee recommended that the loan order in the amount of \$620,000.00 for the McCabe Playground having been given a first reading on September 26, 2011 be given a second and final reading. Councillor Stanley moved the action of the committee be the action of the council. The roll was called. Voting yea were Councillors Collura, Curtin, Darcy, Doucette, Giordano, LeBlanc, Logan, Marchese, McMenimen, Romard, Rourke, Stanley, Tarallo, and Waddick. The order was adopted by a 14 – 0 vote. Order # 31619

The Long Term Debt Committee recommended that the loan order in the amount of \$ 200,000.00 for the design and installation of a coordinated sign system for Moody and Main Streets be given a first reading

Councillor Stanley moved the action of the committee be the action of the council. On a voice vote, the loan order was given a first reading.

### **Committee of the Whole**

The Committee of the Whole recommended that the Surplus part of the Fitch School Land submitted by the Mayor on 3/8/10 be filed.

Councillor Waddick moved the action of the committee be the action of the council. On a voice vote, the matter was filed.

The Committee of the Whole recommended that the communication by the Mayor that Fred Laskey to address the committee be filed.

Councillor Waddick moved the action of the committee be the action of the council. On a voice vote, the matter was filed.

The Committee of the Whole recommended that the resolution regarding CPC Members be placed on file.

Councillor Waddick moved the action of the committee be the action of the council. On a voice vote, the matter was filed.

### **Ordinances and Rules Committee**

The Ordinances and Rules Committee recommended that Special Permit for Waltham Towers, Inc. of P.O. Box 9127, Atlanta, Georgia and New Cingular Wireless PCS, LLC by AT&T Mobility Corporation, Its Manager (“AT&T”) c/o Brian J. Allen, KJK Wireless, 3 Brookside Drive, Sutton, Massachusetts for property located at 50r Bear Hill Road be granted. Councillor Tarallo moved the action of the committee be the action of the council. The roll was called. Voting yea were Councillors Collura, Curtin, Darcy, Doucette, Giordano, LeBlanc, Logan, Marchese, McMenimen, Romard, Rourke, Stanley, Tarallo, and Waddick. The order was adopted by a 14-0 vote. Order 31621

The Ordinances and Rules Committee recommended that the Special Permit for Stony Brook Holdings, LLC of Building 3, 130 Turner Street, Suite 130, Waltham, Massachusetts and New Cingular Wireless PCS, LLC by AT&T Mobility Corporation, Its Manager (“AT&T”) c/o Brian J. Allen, KJK Wireless, 3 Brookside Drive, Sutton, Massachusetts for property located at 130 Turner Street be granted. Councillor Tarallo moved the action of the committee be the action of the council. The roll was called. Voting yea were Councillors Collura, Curtin, Darcy, Doucette, Giordano, LeBlanc, Logan, Marchese, McMenimen, Romard, Rourke, Stanley, Tarallo, and Waddick. The order was adopted by a 14-0 vote. Order 31622

The Ordinances and Rules Committee recommended that the Special Permit for BCCC Property, LLC, c/o Spaulding & Slye, 100 Winter Street, Suite 1500, Waltham, Massachusetts and New Cingular Wireless PCS, LLC by AT&T Mobility Corporation, Its Manager (“AT&T”) c/o Brian J. Allen, KJK Wireless, 3 Brookside Drive, Sutton, Massachusetts for property located at 1050 Winter Street be granted

Councillor Tarallo moved the action of the committee be the action of the council.

The roll was called. Voting yea were Councillors Collura, Curtin, Darcy, Doucette, Giordano, LeBlanc, Logan, Marchese, McMenimen, Romard, Rourke, Stanley, Tarallo, and Waddick.

The order was adopted by a 14-0 vote. Order 31620

The Ordinances and Rules Committee recommended that the General Ordinance Amendment amending Taxi fares be given a second reading.

Councillor Tarallo moved the action of the committee be the action of the council.

The roll was called. Voting yea were Councillors Curtin, Darcy, Doucette, Giordano, LeBlanc, Logan, Marchese, McMenimen, Romard, Rourke, Stanley, Tarallo, and Waddick. The order was adopted by a 13-0 vote. Councillor Collura abstained due to a conflict of interest. Order 31618

The Ordinances and Rules Committee recommended that the letter from Mark Rogers be placed on file.

Councillor Tarallo moved the action of the committee be the action of the council. On a voice vote, the letter was filed.

Councillor Curtin moved that the City Council go into Executive Session for the purpose of discussion pending litigation and that Rosario C. Malone be appointed Clerk of the Executive Session and that Assistant City Solicitor Azadi be present. The roll was called. Voting yea were Councillors Collura, Curtin, Darcy, Doucette, Giordano, LeBlanc, Logan, Marchese, McMenimen, Romard, Rourke, Stanley, Tarallo, and Waddick. The City Council recessed into executive session.

The City Council reconvened in open session.

Councillor Tarallo moved to adopt the order that approves the agreement for judgment, in the case of New Cingular Wireless PCS, LLC v. the City of Waltham and the Waltham City Council; and authorizes and directs that said agreement for judgment be signed by the Defendant's attorney and filed on their behalf. The roll was called voting yea were Councillors Collura, Curtin, Darcy, Doucette, Giordano, LeBlanc, Logan, McMenimen,. Romard, Rourke, Stanley, Tarallo and Waddick. Councillor Marchese was absent. The order was adopted by a 13-0 vote. Order # 31617

Councillor Tarallo moved to adjourn. The motion was adopted. On a voice vote, the City Council adjourned at 9:45 PM.

**Adjourned**